



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Ms. Martha C. Wright
Wright & Associates, P.C.
P.O. Box 531777
Grand Prairie, Texas 75053-1777

OR96-0840

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40185.

The Grand Prairie Independent School District (the "school district"), which you represent, received a request for a "[l]etter to Phil Jimmerson from SW Recreational" regarding the resurfacing of the school district's football field. You contend that because the resurfacing project bidding process is on-going, and because releasing the letter to the requestor will give the requestor the price to be bid by Southwest Astroturf, the requested information is protected from required public disclosure under section 552.104.

Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect the purchasing interests of a governmental body, usually in competitive bidding situations prior to the awarding of a contract. Open Records Decision No. 593 (1991) at 2. Generally, section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision 541 (1990) at 4.

Although you do not argue that release of this information could harm the school district in this competitive situation, in Open Records Decision No. 170 (1977), this office stated that

[s]o long as negotiations are in progress regarding interpretation of bid provisions, and so long as any bidder remains at liberty to furnish additional information relating to its proposed contract, we believe that the bidding process is still competitive. Release of the

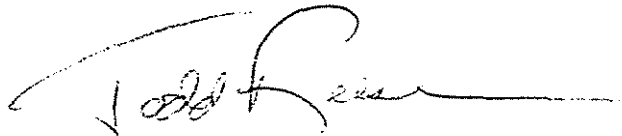
bids while the bidding is still competitive would necessarily result in an advantage to certain bidders at the expense of others and could be detrimental to the public interest in the contract being let.

Open Records Decision No. 170 (1977) at 2.

Under the circumstances presented to us, we conclude that you may withhold the requested information from required public disclosure under section 552.104.¹

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref.: ID# 40185

Enclosures: Submitted documents

cc: Mr. Barry Faulkner
17407 Cathy Place
Dallas, Texas 75252
(w/o enclosures)

¹Once the competitive bidding process is completed and a contract has been awarded, you may not continue to withhold this information under section 552.104. See Open Records Decision No. 541 (1990) at 5.